

REMARKS

Claims 1-65 are pending in the present application.

The December 2, 2005 Office Action

Restriction Requirement

In the Office Action mailed December 2, 2005, the Examiner required restriction between the following groups of claims:

- I. Claims 1-26, 42-61 and 63-65, drawn to an isolated nucleic acid of SEQ ID NO:1, or an isolated nucleic acid encoding SEQ ID NO:2, in sense orientation; a vector, method of enhancing organ development comprising said nucleic acid, a transformed plant or plant cell, or method of regulating organ development, comprising said nucleic acid;
- II. Claims 1, 27-59 and 62-65, drawn to an isolated nucleic acid of SEQ ID NO:1, or an isolated nucleic acid encoding SEQ ID NO: 2, in antisense orientation; method of inhibiting organ development comprising said nucleic acid in antisense orientation, a transformed plant or plant cell, or method of regulating organ development, comprising said nucleic acid in antisense orientation.

The Examiner indicated that claims 42-59 and 63-65 are generic to Groups I and II and will be examined to the extent that they are drawn to the elected invention. The Examiner's

rationale for restricting the claims as above is set forth on pages 2-3 of the Office Action.

Specifically, the Examiner has taken the position that sense and antisense sequences are distinct from one another in structure and function and utilize different mechanisms and thus, each would require a separate search and examination unique to nucleic acid molecules operably linked to promoters in either sense or antisense orientation.

In response, Applicants elect Group I with traverse. Applicants direct the Examiner's attention to MPEP §803.04 "Restriction - Nucleotide Sequences," which specifically states that even though nucleotide sequences may be deemed to represent independent and distinct inventions, "[n]evertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided *sua sponte* to partially waive the requirements of 37 C.F.R. 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application." As §803.04 further points out, "[i]t has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction."

Applicants assert that, consistent with the established Office policy recited in MPEP §803.04 and referred to above, Groups I-II should be examined together. Doing so would not present an undue burden on the Examiner. Moreover, the present application does not represent the type of "exceptional" case referred to in MPEP §803.04, in which "the complex nature of the claimed material, for example a protein amino acid sequence reciting three dimensional folds, may necessitate that the reasonable number of sequences to be selected be less than ten."

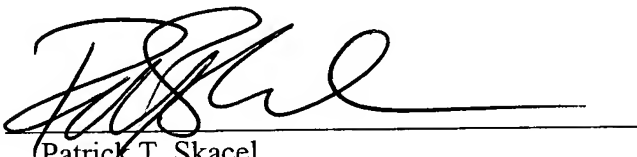
Accordingly, Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement set forth in the Office Action of December 2, 2005. The Examiner is invited to telephone Applicants' undersigned attorney if it is deemed to expedite prosecution of the subject application.

No fee is believed due in connection with the filing of this Response. If, however, any fee is deemed necessary, authorization is hereby given to charge such fee, to Deposit Account 02-2135.

Respectfully submitted,

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By



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